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SB 1496, SD 2 GEOTHERMAL DEVELOPMENT

Statement for
House Committees on
Planning, Energy and Environmental Protection
Water, Land Use, Development and Hawaiian Affairs
Public Hearing - March 13, 1986

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SB 1496, SD 2, would amend subsection (d) of HRS 205-5.1, a subsection that relates to the issuance of conservation district use permits for geothermal development. This statement on the bill does not reflect an institutional position of the University of Hawaii.

The bill would add to the present subsection:

- a) an instruction to the Board that it is to consider the "preponderance of the evidence" in deciding whether certain criteria are met by a proposed geothermal development;
- b) the criteria that, if met, warrant issuance of a permit for the development; and
- c) time limits within which the Board must act on a permit application.

The subsection would be considerably improved by the addition of the proposed instruction, appropriate criteria, and the proposed time limits. However, the criteria as they are now worded are mutually inconsistent. These criteria are set forth in three numbered paragraphs. Paragraph (1) requires a finding that the geothermal development proposed in an area would not have certain unreasonable adverse effects. Paragraph 2 requires a finding that the development proposed would not unreasonably burden public services in the area. Paragraph 3 requires a finding that there are reasonable means to mitigate the unreasonable adverse effects or burdens to which paragraphs 1 and 2 relate.

For the issuance of a permit all three criteria would have to be met. However, the criterion in paragraph 3 represents an exception to those of paragraphs 1 and 2 and not an addition to them.

The wording problem may easily be avoided, for example by:

- 1) adding the phrase "unless there are reasonable measures available to mitigate these unreasonable adverse effects" to the end of paragraph (1);
- 2) adding the phrase "unless there are reasonable measures available to mitigate these unreasonable adverse burdens" to the end of paragraph (2); and
- 3) deleting paragraph 3.

The criteria proposed for addition to HRS 205.1(d) are already included in HRS 205.1(e) where they are applied to permits for geothermal development in the Agricultural, Rural, and Urban Districts. They should be revised in that subsection to avoid the wording problem to which have called attention.